



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
<http://www.epa.gov/region08>

DOCKET NO.: SDWA-08-2002-44

IN THE MATTER OF:

AK FOODS, LLC

Respondent

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FINAL ORDER

Pursuant to 40 C.F.R. § 22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondents are hereby ORDERED to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondents of this Consent Agreement and Final Order.

01/14/03
DATE

SIGNED
Alfred C. Smith
Regional Judicial Officer

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

Docket No.: SDWA-08-2002-44

In the Matter of:)	
)	
AK Foods, LLC.)	CONSENT AGREEMENT
)	
)	
Respondent.)	

Complainant, United States Environmental Protection Agency, Region 8 (EPA), and Respondent, AK Foods, LLC. (Respondent), by their undersigned representatives, hereby consent and agree as follows:

1. EPA issued to Respondent a Proposed Administrative Order and Opportunity to Request a Hearing (PAO) filed on September 30, 2002, pursuant to Section 1423(c) of the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300h-2(c).

2. Respondent, at all times relevant to the PAO, has owned and/or operated a facility that is an animal slaughter and meat processing plant, and is located at 29429 County Road R, near Brush, Colorado

3. The PAO alleges that Respondent violated the SDWA from at least August 6, 2001 to September 15, 2002, by violating 40 C.F.R. §§ 144.12(a) and 144.82(a) for allowing movement of fluids containing any contaminants into underground sources of drinking water, if the presence of that contaminant may cause a violation of the primary drinking water standards under 40 C.F.R. Part 141, other health based standards, or may otherwise adversely affect the health of persons.

4. To resolve this matter, the parties agree to a settlement requiring the payment by Respondent of a civil penalty in the amount of four hundred dollars (\$400.00). EPA finds this penalty amount is reasonable, taking into consideration the statutory factors in Section 1423(c) (4) (B) of the Act.

5. The penalty amount of \$400.00 is disparate from the \$32,200.00 proposed amount due to the fact that the Respondent asserted and proved to EPA financial analysts an inability to pay the proposed penalty amount. EPA believes the settlement amount is reasonable based on the financial data submitted by Respondent.

6. Respondent admits that EPA has the jurisdictional authority to issue the PAO and settle this case pursuant to this Consent Agreement, and also admits the remaining allegations, including the findings and alleged violations.

7. This Order on Consent applies to and is binding upon EPA and upon Respondent and Respondent's heirs, successors and assigns. Any change in ownership or corporate status of Respondent including, but not limited to, any transfer of assets of real or personal property shall not alter Respondent's responsibilities under this agreement.

8. This Consent Agreement contains all the terms of the settlement agreed to by the parties.

9. Respondent consents and agrees that not more than 30 (thirty) days after the date of the signed Final Order in this matter, Respondent shall submit a cashier's or certified check in the amount of \$400.00, payable to "Treasurer, United States of America" to:

EPA - Region 8
Regional Hearing Clerk
Post Office Box 360859
Pittsburgh, Pennsylvania 15251.

The check shall reference the Respondent's name and facility address and the EPA Docket Number of this action.

10. Copies of the check identified in Paragraph 8 shall be mailed to the following addresses:

Carol L. Bowden, 8ENF-T
U.S. EPA, Region 8
999 18th Street, Suite 300
Denver, Colorado 80202-2466

and

Regional Hearing Clerk, 8RC
U.S. EPA Region 8
999 18th Street, Suite 300
Denver, Colorado 80202-2466.

11. Respondent further agrees and consents that if Respondent fails to pay the penalty in accordance to the terms of Paragraphs 9 & 10, above, the amount of two thousand dollars (\$2,000.00) plus 1.46% interest, but minus payments made, if any, shall become due and owing by Respondent. A late payment charge of fifteen dollars (\$15.00) shall be imposed after the first 30 days that the payment, or any portion thereof, is overdue, with an additional charge of fifteen dollars (\$15.00) imposed for each subsequent 30-day period until the payment due is made.

12. Nothing in this Consent Agreement shall relieve Respondent of the duty to comply with the SDWA and its implementing regulations.

13. Failure by Respondent to comply with any of the terms of this Consent Agreement shall constitute a breach of the agreement and may result in referral of the matter to the Department of Justice for enforcement of this agreement and for such other relief as may be appropriate.

14. Nothing in this Consent Agreement shall be construed as a waiver by the EPA of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of Respondent's failure to perform pursuant to the terms of this Agreement.

15. The undersigned representative of Respondent certifies that he is fully authorized to enter into the terms and conditions of this Consent Agreement and to bind Respondent to those terms and conditions.

16. The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a Final Order.

17. Each party shall bear its own costs and attorneys fees in connection with this matter.

18. This Consent Agreement, upon incorporation into a Final Order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations alleged in the PAO.

AK Foods, LLC.

Date:01/02/03 By: SIGNED
Aslam Khan, Owner

**U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

Date:01/13/03 By: SIGNED
Elisabeth Evans
Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Date:01/13/03 By: SIGNED
David J. Janik
Supervisory Enforcement Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter of **AK FOODS, LLC., DOCKET NO.: SDWA-08-2002-44** was filed with the Regional Hearing Clerk on January 14, 2003

Further, the undersigned certifies that a true and correct copy of the document was delivered to Jim Eppers, Enforcement Attorney, U.S. EPA - Region VIII, 999 18th Street - Suite 300, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt to:

Alsam Kahn, Owner
AK Foods, LLC
128 S. Clayton Street
Brush, CO 80723

January 14, 2003

SIGNED_____

Tina Artemis
Regional Hearing Clerk